

HOUSE No. 2259

The Commonwealth of Massachusetts

PRESENTED BY:

George N. Peterson, Jr.

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to civil rights and public safety.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
George N. Peterson, Jr.	9th Worcester
Richard T. Moore	
Bradley H. Jones, Jr.	20th Middlesex
Elizabeth Poirier	14th Bristol
Paul K. Frost	7th Worcester
Anne M. Gobi	5th Worcester
Richard J. Ross	9th Norfolk
Donald F. Humason, Jr.	4th Hampden
Jeffrey Davis Perry	5th Barnstable
Angelo J. Puppolo, Jr.	12th Hampden
Stephen Kulik	1st Franklin
Stephen R. Canessa	12th Bristol
Peter v. Kocot	1st Hampshire
Christine E. Canavan	10th Plymouth
Robert L. Rice, Jr.	2nd Worcester
David B. Sullivan	6th Bristol
James R. Miceli	19th Middlesex
Rosemary Sandlin	3rd Hampden
Danielle W. Gregoire	4th Middlesex

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO CIVIL RIGHTS AND PUBLIC SAFETY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section one hundred twenty-one of chapter one hundred and forty of the General Laws is hereby amended by deleting the section in its entirety and replacing it with the following:-

Section 121. No county, municipality, township or other community entity within the Commonwealth of Massachusetts may enact, pass or enforce any law, ordinance or regulation concerning the lawful ownership, use, possession, transfer, purchase, receipt or transportation of firearms, antique firearms, ammunition or ammunition components.

The right to keep and bear arms as an individual civil right shall be presumed to exist in all matters regarding the ownership, use, possession, transfer, purchase, receipt or transportation of firearms, antique firearms, ammunition or ammunition components unless expressly prohibited by the laws of this Commonwealth.

SECTION 2. Section one hundred twenty-one A of chapter one hundred and forty of the General Laws is hereby repealed.

SECTION 3. Section one hundred twenty-two of chapter one hundred and forty of the General Laws is hereby amended by deleting the section in its entirety and replacing it with the following:-

Section 122. As used in sections 122 to 129D inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Ammunition”, ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.

“Antique Firearm”, shall mean

(A) any firearm manufactured in or prior to the year 1899;

(B) any replica of any firearm described in clause (A) if such replica: (i) is not designed or redesigned for using rimfire or conventional centerfire cartridges; or (ii) uses rimfire or conventional centerfire cartridges which are no longer manufactured in the United States and which are not readily available in the ordinary channels of commercial trade.

“Conviction”, a finding or verdict of guilt or a plea of guilty, whether or not final sentence is imposed. Any conviction which has been expunged, or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this chapter, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

“Crime of Violence”, shall mean any convictions listed within this definition that: (i) has as an element the use, attempted use or threatened use of physical force or a deadly weapon against

the person of another; (ii) is home invasion, extortion, arson or kidnapping; (iii) involves the use of explosives; or (iv) otherwise involves conduct that presents a serious risk of physical injury to another.

(1) any crime punishable by imprisonment for a term exceeding one year for which a committed term of imprisonment has been served after sentencing has been carried out;

(2) any misdemeanor punishable by imprisonment for more than two years for which a committed term of imprisonment has been served after sentencing has been carried out; or

(3) any act of juvenile delinquency involving the use or possession of a deadly weapon that resulted in the bodily harm of another and would be punishable by imprisonment for more than one year for such term if committed by an adult.

“Firearm”, any weapon which will, or is designed to, or may readily be converted to, expel a projectile by the action of a propellant; or the frame of any such weapon. Such term does not include an antique firearm. This term shall be meant to include a rifle, shotgun or handgun.

“Handgun”, a firearm which has a short stock and is designed to be held and fired by the use of a single hand.

“Imitation firearm”, any weapon which is designed, manufactured or altered in such a way as to render it incapable of discharging a shot or bullet.

“Legal Alien”, any person who is not a citizen of the United States who is legally residing in or visiting the United States.

56 “Length of barrel” or “barrel length”, that portion of a firearm, rifle, shotgun or machine gun
57 through which a shot or bullet is driven, guided or stabilized and shall include the chamber.

58 “Local Licensing Agent”, the chief of police or the board or officer having control of the
59 police in a city or town, or persons authorized by them and shall be accountable to the Secretary
60 of Public Safety for the lawful issuance of firearm identification cards.

61 “Machinegun”, any weapon which shoots, is designed to shoot, or can be readily restored to
62 shoot, automatically more than one shot, without manual reloading, by a single function of the
63 trigger. The term shall also include the frame or receiver of any such weapon, any part designed
64 and intended solely and exclusively, or combination of parts designed and intended, for use in
65 converting a weapon into a machinegun, and any combination of parts from which a machinegun
66 can be assembled if such parts are in the possession or under the control of a person.

67 “Non-resident”, any person being a citizen of the United States whose legal residence is
68 outside of the Commonwealth of Massachusetts.

69 “Prohibited Person”, any person who:

70 (1) is under indictment in any court for a crime punishable by imprisonment for a term

71 exceeding one year;

72 (2) has been convicted of a crime of violence;

73 (3) has been convicted of a crime punishable by imprisonment for a term exceeding one

74 year that is not a crime of violence for which a committed term of imprisonment has

75 been served after sentencing has been carried out;

- (4) has been convicted of a misdemeanor punishable by imprisonment for more than two years that is not a crime of violence for which a committed term of imprisonment has been served after sentencing has been carried out;
- (5) is a fugitive from justice;
- (6) is an unlawful user of or addicted to any controlled substance;
- (7) has been adjudicated as a mental defective;
- (8) has been involuntarily committed to any mental institution;
- (9) is an illegal alien;
- (10) has been discharged from the military under dishonorable conditions;
- (11) has renounced his or her United States citizenship;
- (12) is currently subject to a court order restraining the person from harassing, stalking, or threatening an intimate partner or child of the intimate partner; no such order that has expired for which there was no conviction of a violation of such order shall be considered a disqualifier; or
- (13) has been convicted of a misdemeanor crime of domestic violence, as defined in 18 USC 921 (a)(33).

When determining the status of a prohibited person in regards to convictions, the determination shall only be made using the penalties in place at the time of conviction.

“Rifle”, means a weapon intended to be fired from the shoulder and designed, redesigned, made or remade to use the energy of a chemical propellant to fire only a single projectile through a rifled bore for each single pull of the trigger.

“Shotgun”, a firearm intended to be fired from the shoulder and designed, redesigned, made or remade to use the energy of a chemical propellant to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

“State Licensing Authority”, the Secretary of Public Safety, who shall be responsible for the oversight of the issuance of Firearm Identification Cards and shall have direct authority over all local licensing agents in regards to the issuance of cards and the application process therefore.

SECTION 4.. Section one hundred twenty-two A of chapter one hundred and forty of the General Laws is hereby repealed.

SECTION 5. Section one hundred twenty-two B of chapter one hundred and forty of the General Laws is hereby amended by deleting the section in its entirety and replacing it with the following:-

Section 122B. Any applicant or holder aggrieved by a denial, revocation or suspension of a firearm identification card, unless a hearing has previously been held pursuant to chapter 209A, may, within either 90 days after receipt of notice of such denial, revocation or suspension or within 90 days after the expiration of the time limit in which the local licensing agent is required to respond to the applicant, file a petition to obtain judicial review in the district court having jurisdiction in the city or town wherein the applicant filed for or was issued such card. A justice of such court, after a hearing and a finding of the facts, shall determine if the petitioner is presently eligible for a firearm identification card. If the justice finds in favor of the petitioner, said justice shall order the local licensing agent to issue the firearms identification card to the petitioner within 10 days. The local licensing agent shall have no right to appeal the decision of a court order to issue said card. A refusal to issue said card by the local licensing agent shall place the local licensing agent in contempt of court.

SECTION 6. Section one hundred twenty-three of chapter one hundred and forty of the General Laws is hereby amended by deleting the section in its entirety and replacing it with the following:-

Section 123. A firearm identification card shall be issued and possessed subject to the following conditions and restrictions:

(1) Any person residing or having a place of business within the jurisdiction of the local licensing agent or any person residing in an area of exclusive federal jurisdiction located within a city or town may submit to the local licensing agent an application for a firearm identification card, or renewal of the same, which the local licensing agent shall issue unless the applicant has been deemed to be a prohibited person as defined in section 122.

(2) Upon receiving an application for a firearm identification card, the local licensing agent or person accepting applications on behalf of the local licensing agent shall immediately issue a receipt form for said application. Said form shall be made standard and supplied by the firearms record bureau.

(3) Within seven days of the receipt of a completed application for a firearm identification card, the local licensing agent shall forward one copy of the application and one copy of the applicant's fingerprints to the Firearms Record Bureau. The taking of fingerprints shall not be required in issuing the renewal of a card if the renewal applicant's fingerprints are on file with the Firearms Record Bureau. The Firearms Record Bureau shall within 15 days advise the local licensing agent, in writing, of the applicant's status as a prohibited person. If the information from Firearms Record Bureau does not state in writing that the applicant is a prohibited person, the local licensing agent shall, within 30 days from the date of application, issue the firearm identification card.

(4) If the applicant is determined to be a prohibited person, the local licensing agent shall, within 30 days from the date of application, issue the applicant a denial/revocation form. This form shall be made standard in form and supplied by the Firearm Record Bureau. The denial/revocation form shall include the applicant's personal information, date of denial, a copy of their prohibited person file, prohibited person file number and the relevant information regarding an appeal as a prohibited person under section 122B.

(5) The local licensing agent, or any government entity, may not prescribe any other condition for the issuance of a firearm identification card not specified within this section.

(6) A firearm identification card shall be revoked or suspended by the local licensing agent or his designee upon receiving notice from the Firearms Record Bureau that the card holder has become a prohibited person.

(7) Upon revocation of a Firearm Identification Card, the local licensing agent shall take possession of such card and the person whose card is so revoked or suspended shall take all action required under the provisions of section 125. No appeal or post-judgment motion shall operate to stay such revocation. A revoked or suspended card may be reinstated when it is determined by the Firearms Record Bureau that the card holder or applicant is no longer a prohibited person.

(9) A firearm identification card shall be valid for all lawful purposes subject to the following age based restrictions:

(a) A firearm identification card holder aged 15 through 17 shall be entitled to borrow, possess, carry, or transport any rifle or shotgun;

164 **(b) A firearm identification card holder aged 18 through 20 shall be entitled to**
165 **purchase, own, rent, lease, borrow, possess, carry, transfer or transport any rifle or**
166 **shotgun;**

167 **(c) A firearm identification card holder aged 21 and over shall be entitled to**
168 **purchase, own, rent, lease, borrow, possess, transport, carry, transfer or carry**
169 **concealed any firearm;**

170 (10) A firearm identification card shall be provided by the Firearm Record Bureau board and
171 shall be standard in a size and shape equivalent to that of a license to operate motor vehicles
172 issued by the registry of motor vehicles pursuant to section 8 of chapter 90 and shall contain an
173 identification number, name, address, photograph, place and date of birth, height, weight, hair
174 color, eye color and signature of the cardholder and shall be marked "Firearm Identification
175 Card".

176 (11) The application for such card shall be made in a standard form provided by the Firearm
177 Record Bureau. The application shall not require the applicant to divulge to any person not
178 directly involved with the licensing process under this section that they are applying for a firearm
179 identification card, nor shall the application require that the applicant supply any letters of
180 reference. Any applicant shall have the right to file an amended application if it is found that the
181 applicant did not correctly understand the questions being asked. No applicant shall be denied a
182 firearms identification card because of the need to submit an amended application. The local
183 licensing agent may not prescribe any other condition for the issuance of a firearm identification
184 card.

(12) Any person who knowingly files an application containing false information with the expressed intent to deceive the local licensing agent shall be punished by a fine of not less than \$500 nor more than \$5,000.

(13) A Firearm Identification Card shall be valid for a period of not less than 6 years from the date of issue, except that if the cardholder applied for renewal before the card expired, the card shall remain valid until revoked or renewed. A card issued on February 29 shall expire on March 1.

(14) The Firearms Record Bureau shall send by first class mail to the holder of a firearm identification card, a notice of the expiration of the card not less than 120 days before its expiration, and shall enclose with the notice a form for the renewal of the card. The Firearms Record Bureau shall include in the notice all pertinent information about the penalties that may be imposed if the firearm identification card is not renewed.

(15) The fee for an application for a firearm identification card shall be \$40, which shall be payable to the city or town of the local licensing agent and shall not be prorated or refunded in the case of revocation or denial.

(16) Any person of the age of 70 upon filing for a renewal shall be exempt from the requirement of paying a renewal fee for a firearm identification card. All fees for an application for a renewal of a firearm identification card shall be prorated if it is determined that the applicant will turn 70 years of age during the upcoming license term.

(17) A cardholder shall notify, in writing, the Firearms Record Bureau of any change of address. Such notification shall be made by certified mail accompanied with a five dollar fee within 30 days of its occurrence. Upon receipt of the notification and fee, the Firearms Record

Bureau shall send the card holder a new card reflecting the reported change of address. A cardholder who fails to complete such notification shall be fined not more than \$100.

(18) Upon issuance of a firearm identification card under this section, the local licensing agent shall forward a copy of such approved application and card to the Firearms Record Bureau, who shall inform the local licensing agent forthwith of the existence of any disqualifying condition discovered or occurring subsequent to the issuance of a firearm identification card under this section.

(19) Nothing in this section shall authorize the purchase, possession or transfer of any firearm or ammunition that is prohibited by state or federal law.

(20) In the case of loss, theft or recovery of any firearm or machine gun, a written report shall be made forthwith by the card holder to both the Firearms Record Bureau and the local licensing agent in the city or town where the owner resides.

(21) Transition. Any license to carry a firearm or firearms identification card that is not expired, suspended or revoked at the time of passage of this act shall be deemed to be a firearms identification card as described in this section. All licenses to carry a firearm shall be deemed to have no restrictions, upon passage of this act.

(22) The secretary of the executive office of public safety, or his designee, may promulgate regulations to carry out the purposes of this section.

SECTION 7. Chapter 140 of the General Laws is hereby amended by inserting after section 123 the following section:-

227 Section 123B. (a) Whoever, not being a prohibited person as defined in Section 122, except as
228 provided or exempted by statute, knowingly has in his possession; or knowingly has under his
229 control in a vehicle; a firearm, loaded or unloaded, as defined in Section 122 and whose firearm
230 identification card issued under section 124 is invalid for the sole reason that it has expired shall
231 be subject to a civil fine of not less than \$100 nor more than \$500. Such fine shall not be issued
232 if the card holder can produce evidence of a renewal is in process.

233 (b) Whoever, not being a prohibited person as defined in Section 122, except as provided or
234 exempted by statute, knowingly has in his possession, or knowingly has under his control in a
235 vehicle, a firearm, loaded or unloaded, as defined in Section 122 without either:

236 (i) being present in or on his residence or place of business; or

237 (ii) having in effect a firearm identification card issued under section one hundred
238 twenty-three; or

239 (iii) having complied with the provisions of sections one hundred and twenty-four, one
240 hundred twenty-eight or one hundred twenty-eight A;

241 shall be subject to a civil fine of not less than \$500 nor more than \$5000.

242 **SECTION 8.** Section one hundred twenty-four of chapter one hundred and forty of the
243 General Laws is hereby amended by deleting the section in its entirety and replacing it with the
244 following:-

245 Section 124. No person, other than a federally licensed dealer or one who has been issued a
246 firearm identification card or an exempt person as hereinafter described, shall own or possess
247 any firearm or ammunition.

No person shall sell, give away, loan or otherwise transfer a firearm or ammunition other than: (1) by operation of law; (2) to an exempt person as hereinafter described; (3) to a federally licensed dealer; or (4) to a person who displays his firearm identification card.

The provisions of this section shall not apply to the following exempted persons and uses:

(a) Any device used exclusively for signaling or distress use and required or recommended by the United States Coast Guard or the Interstate Commerce Commission, or for the firing of stud cartridges, explosive rivets or similar industrial ammunition;

(b) Federally licensed firearms manufacturers or wholesale dealers, or persons employed by them or by licensed dealers, or on their behalf, when possession of firearms is necessary for manufacture, display, storage, transport, installation, inspection or testing;

(c) To a person voluntarily surrendering a firearm and ammunition therefor to a local licensing agent, the colonel of the state police or his designee if prior written notice has been given by said person to the local licensing agent or the colonel of the state police, stating the place and approximate time of said surrender;

(d) The regular and ordinary transport of firearms as merchandise by any common carrier;

(e) Possession by retail customers for the purpose of firing at duly licensed target concessions at amusement parks, piers and similar locations, provided that the firearms to be so used are firmly chained or affixed to the counter and that the proprietor is in possession of a firearm identification card;

267 (f) Possession of firearms and ammunition therefor by nonresident hunters with valid
268 nonresident hunting licenses during hunting season;

269 (g) Possession of firearms and ammunition therefor by nonresidents while on a firing or
270 shooting range;

271 (h) Possession of firearms and ammunition therefor by nonresidents traveling in or through
272 the commonwealth, providing that any firearms are unloaded and enclosed in a locked case or
273 trunk;

274 (i) Possession of firearms by nonresidents while at a firearm showing or display organized by
275 a regularly existing gun collectors' club or association;

276 (j) Any new resident moving into the commonwealth for a period of 180 days, or any resident
277 of the commonwealth upon being released from active service with any of the armed services of
278 the United States with respect to any firearm and any ammunition therefor then in his possession,
279 for no less than 180 days or such time as may be needed to complete the process for receiving a
280 firearm identification card after such release, return or entry into the commonwealth;

281 (k) Any person under the age of fifteen with respect to the use of a firearm by such person in
282 hunting, provided that such use is otherwise permitted by law and is under the immediate
283 supervision of a person holding a firearm identification card,

284 (l) A non-profit corporation, organized for educational purposes, may possess firearms,
285 provided that any such possession, or utilization of those firearms, is under the immediate
286 supervision of a holder of a firearm identification card;

(m) The temporary holding, handling or firing of a firearm for examination, trial or instruction in the presence of a holder of a firearm identification card, or a duly commissioned officer, noncommissioned officer or enlisted member of the United States Army, Navy, Marine Corps, Air Force or Coast Guard, or the National Guard or military service of the commonwealth or reserve components thereof, while in the performance of his duty, or where such holding, handling or firing is for a lawful purpose;

(n) A person acting as an executor of an estate containing firearms, or any person inheriting firearms, shall obtain a Firearm Identification Card within 180 days or such time as may be needed to complete the process to obtain a firearms identification card. The executor, or person inheriting firearms, may transfer said firearms to a federally licensed dealer;

(o) Persons in the military or other service of any state or of the United States, and police officers and other peace officers of any jurisdiction, in the performance of their official duty or when duly authorized to possess them;

(p) Carrying or possession by residents or nonresidents of an antique firearm as defined in section 122.

(q) The carrying or possession of conventional rifles, shotguns, and ammunition therefor by nonresidents who meet the requirements for such carrying or possession in the state in which they reside.

(r) Possession by a veteran's organization chartered by the Congress of the United States, chartered by the commonwealth or recognized as a nonprofit tax-exempt organization by the

307 Internal Revenue Service and possession by the members of any such organization when on
308 official parade duty or ceremonial occasions.

309 (s) Possession by federal, state and local historical societies, museums, and institutional
310 collections open to the public, provided such firearms, rifles or shotguns are unloaded, properly
311 housed and secured from unauthorized handling;

312 (t) The possession of firearms, machine guns and ammunition, by banks or institutional
313 lenders, or their agents, servants or employees, when the same are possessed as collateral for a
314 secured commercial transaction or as a result of a default under a secured commercial
315 transaction.

316 (u) Any nonresident who is eighteen years of age or older at the time of acquiring a rifle or
317 shotgun from a federally licensed firearms dealer; provided however, that such nonresident must
318 meet the licensing or possession requirements, if any, of their state of residence.

319 Nothing in this section shall permit the sale of any rifle or shotgun therefor to a minor under
320 the age of eighteen nor may any handgun be sold to a person under the age of twenty-one nor to
321 any person who does not possess a valid firearm identification card.

322 Any person who, while not being within the limits of his own property or residence, or such
323 person whose property or residence is under lawful search, and who is not exempt under this
324 section, shall on demand of a police officer or other law enforcement officer, exhibit his firearm
325 identification card or receipt for renewal application for such card, or exhibit a valid hunting
326 license issued to him which shall bear the number officially inscribed of such firearm
327 identification card if any. Upon failure to do so, such person may be required to surrender to

such officer said firearm which shall be taken into custody as under the provisions of section one hundred and twenty-five, except that such firearm shall be returned forthwith upon presentation within thirty days of said firearm identification card or receipt for fee paid for such card or hunting license as hereinbefore described. Any person subject to the conditions of this paragraph may, even though no firearm was surrendered, be required to produce within thirty days said firearm identification card or receipt for fee paid for such card, or said hunting license, failing which the conditions of section one hundred and twenty-five will apply. Nothing in this section shall prevent any person from being prosecuted for any violation of this chapter.

SECTION 9. Section one hundred twenty-five of chapter one hundred and forty of the General Laws is hereby amended by deleting the section in its entirety and replacing it with the following:-

Section 125. (a) Upon revocation or suspension of a firearm identification card, or of any machine gun license, the person whose card was so revoked or suspended shall without delay deliver or surrender to the local licensing agent, all firearms, machine guns and ammunition which he then possesses.

(b) Upon denial of an application for a firearm identification card, or of any machine gun license, the person whose application was so denied shall without delay deliver or surrender to the local licensing agent, all firearms, machine guns and ammunition which he then possesses.

Upon such delivery or surrender as described in paragraph (a) or (b) the local licensing agent shall issue an itemized receipt of said property to the owner, or their legal representative, at the

time of said delivery or surrender. Due care shall be observed by the local licensing agent in the receipt and holding of any such firearm, rifle, shotgun or machine gun and ammunition.

Any such person as described in paragraph (a) or (b), or his legal representative, having delivered or surrendered any firearms, machine guns and ammunition to the local licensing agent shall have the right to transfer his property to any federally licensed firearms dealer or any other person legally permitted to take possession of such firearms, machine guns and ammunition. Upon written notification by the owner, the local licensing agent shall within ten days deliver such firearms, machine guns and ammunition to the transferee. Any such request for transfer of such property must take place within one year of said delivery or surrender.

The local licensing agent, after taking possession of any firearm, machine gun or ammunition by any means, may transfer possession of such firearm or machine gun for storage purposes to a federally licensed dealer. The local licensing agent shall be liable to such dealer for reasonable storage charges. If the property is not transferred as described in this section within one year after such delivery or surrender, the local licensing agent may dispose of any such firearm, machine gun or ammunition as provided under this section. Any such dealer that takes possession of a weapon under the provisions of this section shall: (i) inspect such firearm or machine gun; (ii) issue to the owner a receipt indicating the make, model, caliber, serial number and condition of each firearm or machine gun so received; and (iii) store and maintain all firearms or machine guns so received in accordance with such regulations, rules or guidelines as the secretary of the executive office of public safety may establish under this section.

The local licensing agent shall not transfer any firearm or machine gun that was used or was suspected of being used in the commission of a crime and is evidence in any current or pending criminal case.

Firearms, machine guns and ammunition not transferred at the request of the owner within one year after delivery or surrender according to the provisions of this section shall be sold at public auction by the colonel of the state police to the highest bidding person legally permitted to purchase and possess said firearms, machine guns and ammunition and the proceeds shall be remitted to the state treasurer. Any funds derived from such auction shall be used to fund the Criminal Firearms and Trafficking Division as described in Section 9C of Chapter 269.

The secretary of the executive office of public safety may make and promulgate such rules and regulations as are necessary to carry out the provisions of this section.

SECTION 10. Section one hundred twenty-six of chapter one hundred and forty of the General Laws is hereby amended by deleting the section in its entirety and replacing it with the following:-

Section 126. Any government agency, building or facility that restricts access to a citizen lawfully carrying a firearm shall provide, free of charge, a means for securely storing any firearm(s) possessed by a holder of a firearms identification card who wishes to enter the building or facility.

SECTION 11. Section one hundred twenty-seven of chapter one hundred and forty of the General Laws is hereby amended by deleting the section in its entirety and replacing it with the following:-

Section 127. No person carrying a loaded firearm under a Firearm Identification Card issued under section 123 shall carry the same in a vehicle unless such firearm while carried therein is under the direct control of such person. Whoever violates the provisions of this subsection shall be punished by a fine of not less than \$50 nor more than \$500.

SECTION 12. Section one hundred twenty-eight of chapter one hundred and forty of the General Laws is hereby amended by deleting the section in its entirety and replacing it with the following:-

Section 128. Any nonresident or any person not falling within the jurisdiction of a local licensing agent, who is not a prohibited person as defined in section 122 of this chapter may apply to the colonel of the state police for a Firearm Identification Card. Upon the determination that the applicant is not a prohibited person, the colonel of state police, or persons authorized by him, shall issue said card to the applicant. The fee for such card shall be \$40 and the card shall be valid for not less than six years.

SECTION 13. Section one hundred twenty-eight A of chapter one hundred and forty of the General laws is hereby amended by deleting the section in its entirety and replacing it with the following:-

Section 128A. Any person who is not a resident of the commonwealth may carry a firearm in or through the commonwealth for the purpose of taking part in a firearm competition or attending any meeting or exhibition of any organized group of firearm collectors or for the purpose of hunting; provided, that such person is a citizen of the United States and is lawfully able to do so in their state of residence, district or territory of residence.

Notwithstanding any general or special law to the contrary, any lawful citizen may transport or carry firearms through the Commonwealth in accordance with federal law.

Law enforcement officers and other peace officers, who are not a prohibited person, of any state, territory or jurisdiction within the United States duly authorized to possess firearms by the laws thereof shall, for the purposes of this section, be deemed to have a Firearm Identification Card.

SECTION 14. Section one hundred twenty-eight B of chapter one hundred and forty of the General Laws is hereby amended by deleting the section in its entirety and replacing it with the following:-

Section 128B. No legal alien as defined in section 122 shall own or have in his possession or under his control a firearm except as provided in this section. The colonel of the state police may, after an investigation, issue a Firearm Identification Card to a legal alien legally residing or visiting the commonwealth. The fee for the permit shall be \$100.

Upon issuing such card said colonel shall so notify, in writing, the chief of police or the board or officer having control of the police in the city or town in which such alien resides. Each such card shall clearly indicate the expiration date as determined by the colonel and shall be revocable for cause by said colonel. In case of revocation, the fee for such permit shall not be prorated or refunded. Whenever any such permit is revoked, said colonel shall give notification as hereinbefore provided. The permit issued to an alien under this section shall be subject to sections one hundred and twenty-three and one hundred and twenty-four except as otherwise provided by this section.

Violation of any provision of this section shall be punished by a fine of not less than one thousand nor more than five thousand dollars. If, in any prosecution for violation of this section, the defendant alleges that he has been naturalized, or alleges that he is a citizen of the United States, the burden of proving the same shall be upon him. Any firearm owned by an alien or in his possession or under his control in violation of this section shall be forfeited to the commonwealth. Any such firearm may be the subject of a search warrant as provided in chapter two hundred and seventy-six.

The director of law enforcement of the department of fisheries, wildlife and environmental law enforcement, deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police officers and deputy environmental police officers, wardens as defined in section one of chapter one hundred and thirty-one and members of the state police in areas over which they have jurisdiction, and all officers qualified to serve criminal process shall arrest, without a warrant, any person found with a firearm in his possession if they have reason to believe that he is an alien and if he does not have in his possession a valid card as provided in this section.

SECTION 15. Chapter 140 of the General Laws is hereby amended by inserting after section 128B the following section:-

Section 128C:

(a) The colonel of the state police shall, after an investigation, issue a machine gun license to a resident of the Commonwealth, who is the holder of a firearm identification card and who is

over 21 years of age, if such citizen has demonstrated that they are, or intend to be, a collector of machine guns.

The term “collector of machine guns” shall refer to:

- (i) Any person who is licensed pursuant to 18 U.S.C. Chapter 44, sections 921-929 and 27 CFR 178;
- (ii) Any person who seeks to acquire machine guns for such lawful purposes as historical significance, display, research, lecturing, demonstration, test firing, investment or other like purpose; or
- (iii) Any person currently lawfully in possession of a machine gun under federal law.

(b) The fee for the machine gun license shall be \$40, and it shall be valid for a term of six years. The application shall be standard in form. Upon receiving an application, the colonel shall either issue or deny the license within sixty days. Any such denial shall be in writing and shall clearly state the reasons why the applicant was not considered a collector of machine guns or is a prohibited person.

Upon issuing such license, the colonel shall notify in writing the local licensing agent. A machine gun license shall be revocable for cause by the colonel. In case of revocation, the fee for such license shall not be prorated or refunded.

(c) A machine gun license shall entitle a person to purchase, possess, transport, transfer, store and fire a machine gun in accordance with federal law.

(d) No person shall own or have in his possession or under his control a machine gun, except as provided in this section. It shall be lawful for:

(i) A person aged 18 years or over to temporarily hold, handle or fire a machine gun for examination, trial or instruction while under the direct/immediate supervision of a holder of a machine gun license.

(ii) A duly commissioned officer, noncommissioned officer or enlisted member of the United States Army, Navy, Marine Corps, Air Force or Coast Guard, or the National Guard or military service of the commonwealth or reserve components to handle, hold or fire a machine gun, while in the performance of his duty.

(iii) A person aged 21 years or over who is a resident of another state to transport a machine gun through the commonwealth, provided that such person lawfully possesses such machine gun under federal law and under the laws of their state of residence, and provided, further, that said machine gun is unloaded and locked in a trunk or case while the machine gun is being transported.

SECTION 16. Section one hundred twenty-nine of chapter one hundred and forty of the General Laws is hereby amended by deleting the section in its entirety and replacing it with the following:-

Section 129. Notwithstanding the provisions of paragraph (a) of section ten of chapter two hundred and sixty-nine or any other law to the contrary, the carrying or possession of a firearms and blank ammunition therefor, during the course of any television, movie, stage or other similar theatrical production, by a person within such production, shall be authorized; provided, however, that said firearm shall be made permanently disabled from firing conventional cartridges that discharge a projectile.

SECTION 17. Section one hundred twenty-nine B of chapter one hundred and forty of the General Laws is hereby amended by deleting the section in its entirety and replacing it with the following:-

Section 129B. Except as exempted or provided by law, no person shall carry on his person on any public way a loaded rifle or shotgun having cartridges or shells in either an attached magazine or chamber thereof. For purposes of this section, “loaded shotgun or loaded rifle” shall mean any shotgun or rifle having ammunition in either an attached magazine or chamber thereof, such ammunition including a live cartridge, primer (igniter), bullet or propellant powder designed for use in any firearm and, in the case of a muzzle loading or black powder shotgun or rifle, containing powder in the flash pan, a percussion cap and shot or ball; but the term “loaded shotgun or loaded rifle” shall not include a shotgun or rifle loaded with a blank cartridge, which contains no projectile within such blank or within the bore or chamber of such shotgun or rifle.

Whoever violates the provisions of this subsection shall be punished by a fine of not less than \$100 nor more than \$1,000.

This section shall not apply to drills, parades, military reenactments or other commemorative ceremonies, color guards or memorial service firing squads, so-called, as permitted by law.

The provisions of this section shall not apply to the carrying of a loaded rifle or shotgun on a public way by (i) any officer, agent or employee of the commonwealth or any other state or the United States, including any federal, state or local law enforcement personnel; (ii) any member of the military or other service of any state or the United States, including members of the national guard, reserves and junior reserve officer training corps; (iii) any duly authorized law

enforcement officer, agent or employee of any municipality of the commonwealth; provided, however, that any such person described in clauses (i) to (iii), inclusive, shall be authorized by a competent authority to so carry a loaded or unloaded rifle or shotgun on a public way and such person is acting within the scope of his duties or training; or (iv) a person who is lawfully engaged in hunting and is the holder of a valid hunting or sporting license issued pursuant to chapter 131. This section shall not apply to the operation of a shooting gallery, licensed and defined under the provisions of section 56A, nor to persons using the same.

SECTION 18. Section one hundred twenty-nine C of chapter one hundred and forty of the General Laws is hereby amended by deleting the section in its entirety and replacing it with the following:-

Section 129C. Whoever discharges a firearm within five hundred feet of a dwelling or other building in use, except with the consent of the owner or legal occupant thereof, shall be punished by a fine of not less than fifty nor more than one hundred dollars.

The provisions of this section shall not apply to (a) the lawful defense of life and property; (b) any law enforcement officer acting in the discharge of his duties; (c) persons using underground or indoor target or test ranges with the consent of the owner or legal occupant thereof; (d) persons using outdoor skeet, trap, target or test ranges with the consent of the owner or legal occupant of the land on which the range is established; (e) persons using shooting galleries, licensed and defined under the provisions of section fifty-six A of chapter one hundred and forty; and (f) the discharge of blank cartridges for theatrical, athletic, ceremonial, firing squad, or other purposes in accordance with section thirty-nine of chapter one hundred and forty-eight.

SECTION 19. Section one hundred twenty-nine D of chapter one hundred and forty of the General Laws is hereby amended by deleting the section in its entirety and replacing it with the following:-

Section 129D. Any fines collected as a result of any civil violations in section 122 through 129C shall be utilized to fund the Criminal Firearms and Trafficking Division as defined in Section 9C of chapter 269.

SECTION 20. Sections one hundred and thirty through one hundred and thirty-one P of chapter one hundred and forty of the General Laws are hereby repealed.

SECTION 21. Section eighty-five U of chapter two-hundred thirty-one of the General Laws is hereby amended by striking the existing section and replacing it with the following:-

Section 85U. No person who has committed an act of lawful defense as outlined in section 8A of chapter 278 shall be held liable in an action for damages for death or injuries to an assailant.

SECTION 22: Section eighteen B of chapter two hundred sixty-five of the General Laws is hereby amended by striking the existing language and replacing it with the following:

Section 18B. Whoever, while in the commission of or the attempted commission of an offense which may be punished by imprisonment in the state prison,

(A) has in his possession or under his control a firearm as defined in section 9A of chapter 269, shall, in addition to the penalty for such offense, be punished by imprisonment in the state prison for not less than five years; provided, however, if such person, while in the commission or attempted commission of such offense, has in his possession or under his control a machine gun, as defined in section 9A of chapter 269,

such person shall be punished by imprisonment in the state prison for not less than ten years.

(B) has committed an offense which may be punished by imprisonment in the state prison and had in his possession or under his control a firearm and who thereafter, while in the commission or the attempted commission of a second or subsequent offense which may be punished by imprisonment in the state prison, has in his possession or under his control a firearm shall, in addition to the penalty for such offense, be punished by imprisonment in the state prison for not less than 20 years; provided, however, that if such person, while in the commission or attempted commission of such offense, has in his possession or under his control a machine gun, such person shall be punished by imprisonment in the state prison for not less than 25 years.

A sentence imposed under this section for a second or subsequent offense shall not be reduced nor suspended, nor shall any person convicted under this section be eligible for probation, parole, furlough or work release or receive any deduction from his sentence for good conduct until he shall have served the minimum term of such additional sentence; provided, however, that the commissioner of correction may, on the recommendation of the warden, superintendent or other person in charge of a correctional institution or the administrator of a county correctional institution, grant to such offender a temporary release in the custody of an officer of such institution for the following purposes only: (i) to attend the funeral of a spouse or next of kin; (ii) to visit a critically ill close relative or spouse; or (iii) to obtain emergency medical services unavailable at such institution. Prosecutions commenced under this section shall neither be continued without a finding nor placed on file. The provisions of section 87 of chapter 276

relative to the power of the court to place certain offenders on probation shall not apply to any person 17 years of age or over charged with a violation of this section.

SECTION 23. Chapter 265 of the General Laws is hereby amended by inserting after section 44 a new section:—

Section 45. Crimes committed with a deceptive weapon device:

“Deceptive Weapon Device” shall mean any device or item used in the commission of a crime that is intended to convey the presence of a weapon, as defined in this section, to a potential victim or law enforcement officer. Such devices or items shall include, but not be limited to, common air guns, toy guns, or substances carved or fashioned to resemble a weapon.

Any person, who is in possession of a deceptive weapon device as defined in this section, during the commission of a violent crime as defined in Section 9A of Chapter 269 shall be deemed to be armed and shall be punishable by penalties set forth in this chapter.

SECTION 24. Chapter 269 of the General Laws is hereby amended by inserting after section 8 the following new section:-

Section 9A. Definitions

“Ammunition”, ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.

“Conviction”, a finding or verdict of guilt or a plea of guilty, whether or not final sentence is imposed. Any conviction which has been expunged, or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this chapter, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

“Crime of Violence” shall mean any convictions listed within this definition that: (i) has as an element the use, attempted use or threatened use of physical force or a deadly weapon against the person of another; (ii) is home invasion, extortion, arson or kidnapping; (iii) involves the use of explosives; or (iv) otherwise involves conduct that presents a serious risk of physical injury to another.

(1) any crime punishable by imprisonment for a term exceeding one year for which a committed term of imprisonment has been served after sentencing has been carried out;

(2) any misdemeanor punishable by imprisonment for more than two years for which a committed term of imprisonment has been served after sentencing has been carried out; or

(3) any act of juvenile delinquency involving the use or possession of a deadly weapon that that resulted in the bodily harm of another and would be punishable by imprisonment for more than one year for such term if committed by an adult.

“Firearm”, any weapon which will, or is designed to, or may readily be converted to, expel a projectile by the action of an explosive; or the frame of any such weapon. Such term does not include an antique firearm. This term shall be meant to include a rifle, shotgun or handgun.

“Local Licensing Agent”, the chief of police or the board or officer having control of the police in a city or town, or persons authorized by them accountable to the Secretary of Public Safety for the lawful issue of firearm identification cards.

“Machine gun”, any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the

trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.

“Non-resident”, any person being a citizen of the United States whose legal residence is outside of the Commonwealth of Massachusetts.

“Prohibited Person”, any person who:

- (1) is under indictment in any court for a crime punishable by imprisonment for a term exceeding one year;
- (2) has been convicted of a crime of violence;
- (3) has been convicted of a crime punishable by imprisonment for a term exceeding one year that is not a crime of violence for which a committed term of imprisonment has been served after sentencing has been carried out;
- (4) has been convicted of a misdemeanor punishable by imprisonment for more than two years that is not a crime of violence for which a committed term of imprisonment has been served after sentencing has been carried out;
- (5) is a fugitive from justice;
- (6) is an unlawful user of or addicted to any controlled substance;
- (7) has been adjudicated as a mental defective;
- (8) has been involuntarily committed to any mental institution;
- (9) is an illegal alien;
- (10) has been discharged from the military under dishonorable conditions;
- (11) has renounced his or her United States citizenship;

(12) is currently subject to a court order restraining the person from harassing, stalking, or threatening an intimate partner or child of the intimate partner; no such order that has expired for which there was no conviction of a violation of such order shall be considered a disqualifier; or

(13) has been convicted of a misdemeanor crime of domestic violence as defined in 18 USC 921 (a)(33);

(14) Any person under the age of 18,

(i) who is not lawfully engaged in hunting or shooting sports activity; or

(ii) acting under the direct supervision of an adult with a firearms identification card.

“Sawed-off shotgun,” a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun (whether by alteration, modification or otherwise) if such a weapon as modified has an overall length of less than twenty-six inches. The term “sawed-off shogun” shall not apply to any firearm authorized by the Attorney General of the United States under Title 18 U.S.C.

SECTION 25. Chapter 269 of the General Laws shall be amended by inserting after section 9A the following section:-

Section 9B: State firearm crime

(a) Any crime of violence that involved the criminal use of a firearm shall be considered a state firearm crime and shall be investigated by the Criminal Firearms and Trafficking Division.

(b) Any case of unlawful intrastate firearms trafficking shall be considered a state crime and shall be investigated by the Criminal Firearms and Trafficking Division.

(c) Any violation of section 18B or section 45 of chapter 265 or sections 9D through 12E of this chapter shall be considered a state firearm crime and shall be investigated by the Criminal Firearms and Trafficking Division.

SECTION 26. Chapter 269 of the General Laws shall be amended by inserting after section 9B the following section:-

Section 9C: Criminal Firearms and Trafficking Division

Any violent crime committed with the possession of a firearm or machine gun within the commonwealth shall be considered a state crime. All such crimes shall become the jurisdiction of the Criminal Firearms and Trafficking Division.

There shall be attached to the department of the attorney general a special unit of the state police known as the Criminal Firearms and Trafficking Division, heretofore referred to as the division. The division shall assist the office of the attorney general in prosecuting all crimes involving the criminal use of a firearm during the commission of a crime of violence as defined in Section 9A. The division shall investigate all cases of unlawful intrastate firearms trafficking. The division shall investigate any criminal use of a firearm during the commission of a violent crime as defined in Section 9A that has taken place within the commonwealth to establish the following:

1. If the suspect would be considered a prohibited person as defined in Section 9A;
2. Determine if the suspect obtained the firearm illegally;
3. Determine the source from which the suspect illegally obtained the firearm;
4. Create a database of all firearms reported stolen or recovered as stolen property, said database shall be made available to all federally licensed firearm dealers within the commonwealth;

5. Create a database of all firearms used in such crimes within the commonwealth. The database shall include the following:

- a. The make, model and serial number of the firearm;
- b. Any fingerprint evidence found on the firearm;
- c. Any ballistic evidence that can be retrieved from the crime scene;
- d. If the criminal use of the firearm was related to known gang activity;

The division shall make an annual report to the Joint Committee on Public Safety and Homeland Security concerning all of the information that it has gathered during each calendar year concerning the criminal use and criminal trafficking of firearms.

Any fines collected as a result of any convictions in sections 9D through 10F, inclusive, of this chapter shall be utilized to fund the Criminal Firearms and Trafficking Division.

SECTION 27. Chapter 269 of the General Laws shall be amended by inserting after section 9C the following section:-

Section 9D. Prohibited Person in possession of a firearm.

(A) Whoever being a prohibited person is in possession of a firearm shall be subject to a fine of not less than \$500 nor more than \$5,000. A second or subsequent conviction shall be punished by a fine of not less than \$5,000 nor more than \$10,000 or by imprisonment for not less than one year nor more than five years or by both such fine and imprisonment.

(B) Whoever being a prohibited person is in possession of a firearm while in possession of a controlled substance as defined in section 1 of chapter 94C shall be punished by a fine of not less than \$10,000 or by imprisonment for not less than two years nor more than ten years or by both such fine and imprisonment.

(C) Whoever being a prohibited person is in possession of a firearm while engaged in the trafficking of a controlled substance as defined in section 1 of chapter 94C shall be punished by a fine of not less than \$10,000 or by imprisonment for not less than five years nor more than ten years or by both such fine and imprisonment.

(D) Whoever being a prohibited person is in possession of a firearm during the commission of a crime of violence shall be punished by a fine of not less than \$10,000 or by imprisonment for not less than five years nor more than ten years or by both such fine and imprisonment.

SECTION 28. Chapter 269 of the General Laws shall be amended by inserting after section 9D the following section:-

Section 9E Unlawful transfer

(a) It shall be unlawful to provide a firearm to any alien who does not hold a firearms identification card issued by the colonel under section 128B.

(b) It shall be unlawful to provide a firearm to a person known to be a prohibited person.

(c) It shall be unlawful to provide a firearm to any minor, except that nothing shall prevent a parent or guardian from allowing any adult with a firearms identification card to supervise the minor's use of a firearm for purposes of instruction, or participation in organized competition. Nothing in this section shall be construed to prohibit an instructor from furnishing firearms or ammunition therefor to pupils; provided, however, that said instructor has the consent of a parent or guardian of a pupil under the age of eighteen years.

Any person violating (a) (b) or (c) above shall be punished by fine of not less than \$1,000 nor more than \$10,000, or by imprisonment in a state prison for not more than ten years or by

imprisonment in a house of correction for not more than two and one-half years, or by both such fine and imprisonment.

SECTION 29. Chapter 269 of the General Laws shall be amended by inserting after section 9E the following section:-

Section 9F (A) Whoever falsely makes, alters, forges or counterfeits or procures or assists another to falsely make, alter, forge or counterfeit a firearm identification card, or whoever forges or without authority uses the signature, facsimile of the signature, or validating signature stamp of the local licensing agent or its designee, or whoever possesses, utters, publishes as true or in any way makes use of a falsely made, altered, forged or counterfeited a firearm identification card, shall be punished by imprisonment in a state prison for not more than two years, or by a fine of not less than five hundred dollars, or both such fine and imprisonment.

(B) Whoever knowingly manufactures for sale, offers for sale or sells a falsely made, altered, forged or counterfeit firearm identification card as described in paragraph (A) shall be punished by imprisonment in a state

SECTION 30. Chapter 269 of the General Laws shall be amended by inserting after section 9F the following section:-

Section 9G. Unlawful intrastate commerce of firearms

(a) Whoever unlawfully transports firearms into the commonwealth with the intent to use said firearm for the commission of criminal activity shall be punished by a term of imprisonment of not less than five years nor more than ten years in the state prison.

(b) Whoever unlawfully transports firearms into the commonwealth with the intention to unlawfully distribute, sell, or transfer possession of any quantity of firearms shall be punished by a term of imprisonment of not less than five years nor more than ten years in the state prison.

(c) Whoever unlawfully transports firearms into the commonwealth with the intention to unlawfully distribute, sell, or transfer possession of any quantity of firearms to a prohibited person shall be punished by a term of imprisonment of not less than ten years nor more than twenty years in the state prison.

(d) Whoever unlawfully transports a firearm into the commonwealth with the intention to unlawfully distribute, sell, or transfer it to a prohibited person, and if such firearm is subsequently used to cause the death of another, shall be punished by a term of not less than twenty years in the state prison.

Any motor vehicle lawfully owned or operated by any person convicted under this section shall be forfeit in accordance with the provisions of section 24W of Chapter 90. All proceeds from the auction of said vehicle(s) shall be utilized to fund the Criminal Firearms and Trafficking Division.

SECTION 31. Chapter 269 of the General Laws shall be amended by inserting after section 9G the following section:-

Section 9H. Theft of a firearm, breaking and entering

(A) Whoever in the nighttime or the daytime breaks and enters a building, ship, vessel or vehicle with the intent to steal a firearm shall be subject to a fine of not less

than \$5,000 nor more than \$10,000 or by imprisonment for not less than one year
nor more than five years or by both such fine and imprisonment.

(B) Whoever in the nighttime or the daytime breaks and enters a building, ship, vessel
or vehicle with the intent to steal a firearm to distribute to a prohibited person
shall be subject to a fine of not less than \$10,000 or by imprisonment for not less
than five years nor more than ten years or by both such fine and imprisonment.

(C) Whoever in the nighttime or the daytime breaks and enters a building, ship, vessel
or vehicle with the intent to steal a firearm and in the process causes injury of
another shall be subject to a fine of not less than \$10,000 or by imprisonment for
not less than five years nor more than ten years or by both such fine and
imprisonment.

Any motor vehicle lawfully owned or operated by any person convicted under this section
shall be forfeit in accordance with the provisions of section 24W of Chapter 90. All proceeds
from the auction of said vehicle(s) shall be utilized to fund the Criminal Firearms and
Trafficking Division.

SECTION 32. Section ten of chapter two-hundred sixty-nine is hereby amended by
deleting the section in its entirety and replacing it with the following:

Section 10. (a) Whoever knowingly has in his possession, or knowingly has under his control
in a vehicle; a firearm, loaded or unloaded, as defined in Section 9A during the commission of a
felony that is not an act of defense, shall be punished by shall be punished by imprisonment in
the state prison for not less than two and one-half years nor more than five years.

(b) Whoever, being a prohibited person as defined in Section 9A, knowingly has in his possession, or knowingly has under his control in a vehicle; a firearm, loaded or unloaded, as defined in Section 9A during the commission of a felony, shall be punished by shall be punished by imprisonment in the state prison for not less than five years nor more than ten years. The punishment for a second or subsequent offense shall be punished by imprisonment in the state prison for not less than ten years nor more than twenty years.

(c) Whoever, being a prohibited person as defined in Section 9A, and who is not legally within the United States, knowingly has in his possession, or knowingly has under his control in a vehicle; a firearm, loaded or unloaded, as defined in Section 9A during the commission of a felony, shall be punished by shall be punished by imprisonment in the state prison for not less than ten years nor more than twenty years.

(d) Whoever, being a prohibited person as defined in Section 9A, knowingly has in his possession, or knowingly has under his control in a vehicle; a firearm, loaded or unloaded, as defined in Section 9A, while in the possession of a controlled substance as defined in chapter 94C with intent to distribute shall be punished by imprisonment in the state prison for not less than ten years nor more than twenty years.

The provisions of section eighty-seven of chapter two hundred and seventy-six shall not apply to any person seventeen years of age or older, charged with a violation of this subsection, or to any child between ages fourteen and seventeen so charged, if the court is of the opinion that the interests of the public require that he should be tried as an adult for such offense instead of being dealt with as a child.

(e) Whoever, except as provided by law, possesses a machine gun, as defined in said section 9A, or whoever owns, possesses or carries on his person, or carries on his person or under his control in a vehicle, a sawed-off shotgun, as defined in said section 9A, shall be punished by imprisonment in the state prison for life, or for any term of years provided that any sentence imposed under the provisions of this paragraph shall be subject to the minimum requirements of paragraph (c).

(f) Any person convicted under paragraphs (b), (c) (d) and (e) shall not be suspended, nor shall any person so sentenced be eligible for probation or receive any deduction from his sentence for good conduct.

(g) Any person convicted under paragraphs (b), (c), (d) and (e) having been found to have been in the possession of a firearm that has been reported stolen shall be punished by an additional imprisonment in the state prison for not less five years to be served consecutively.

(h) Upon conviction of a violation of this section, the firearm or other article shall, unless otherwise ordered by the court, be confiscated by the commonwealth. The firearm or article so confiscated shall, by the authority of the written order of the court be forwarded by common carrier to the colonel of the state police, who, upon receipt of the same, shall notify said court or justice thereof. Said colonel shall sell by public auction all firearms which can be lawfully owned in the commonwealth for which a lawful owner cannot be determined. Any proceeds received from such auctions shall be utilized to fund the Criminal Firearms and Trafficking Division. Any firearm which may not be lawfully sold in the commonwealth shall be destroyed. The colonel shall keep a permanent record of all firearms destroyed.

839 (i) The court shall, if the firearm or other article was lost by or stolen from the person lawfully
840 in possession of it, order its return to such person.

841 (j) Any person who leaves a firearm unattended with the intent to transfer possession of such
842 firearm to any prohibited person the purpose of committing a crime or concealing a crime shall
843 be punished by imprisonment in a house of correction for not more than two and one half years
844 or in state prison for not more than five years.

845 (k) Whoever knowingly fails to deliver or surrender a revoked firearm identification card or a
846 firearm or machine gun, as provided in section one hundred and twenty-five of chapter one
847 hundred and forty, unless an appeal is pending, shall be punished by imprisonment in a jail or
848 house of correction for not more than two and one-half years or by a fine of not more than one
849 thousand dollars.

850 (l) The provisions of this section shall be fully applicable to any person proceeded against
851 under section seventy-four of chapter one hundred and nineteen, provided, however, that nothing
852 contained in this section shall impair, impede, or affect the power granted any court by chapter
853 one hundred and nineteen to adjudicate a person a delinquent child, including the power so
854 granted under said chapter one hundred and nineteen.

855 (m) For purposes of this section, “loaded” shall mean that ammunition is contained in the
856 weapon or within a feeding device attached thereto.

857 **SECTION 33.** Section ten E of chapter two-hundred sixty-nine is hereby amended by
858 deleting the section in its entirety and replacing it with the following:-

859 Section 10E. Whoever, except as provided by law, in a single transaction or occurrence or in a

860 series of transactions within a twelve month period, knowingly or intentionally distributes, sells,

861 or transfers possession of a quantity of firearms, machine guns, or any combination thereof,

862 shall, if the quantity of firearms, machine guns, or any combination thereof is:

863 (1) Three or more, but less than ten, be punished by a term of imprisonment of not more than

864 ten years in the state prison. No sentence imposed under the provisions of this paragraph shall be

865 for less than a mandatory minimum term of imprisonment of three years and a fine of not more

866 than fifty thousand dollars may be imposed but not in lieu of the mandatory minimum term of

867 imprisonment, as established herein.

868 (2) Ten or more, but less than twenty, be punished by a term of imprisonment of not more

869 than ten years in the state prison. No sentence imposed under the provisions of this paragraph

870 shall be for less than a mandatory minimum term of imprisonment of five years and a fine of not

871 more than one hundred thousand dollars may be imposed but not in lieu of the mandatory

872 minimum term of imprisonment, as established herein.

873 (3) Twenty or more, be punished by a term of imprisonment not less than ten years up to life

874 imprisonment in the state prison. No sentence imposed under the provisions of this paragraph

875 shall be for less than a mandatory minimum term of imprisonment of ten years and a fine of not

876 more than one hundred and fifty thousand dollars may be imposed but not in lieu of the

877 mandatory minimum term of imprisonment, as established herein.

(4) Any person convicted under paragraphs (1), (2) or (3) having been found to have been in the possession of a firearm that has been reported stolen shall be punished by an additional imprisonment in the state prison for not less five years to be served consecutively.

A prosecution commenced under this section shall not be placed on file or continued without a finding, and the sentence imposed upon a person convicted of violating any provision of said section shall not be reduced to less than the mandatory minimum term of imprisonment as established in said section, nor shall any sentence of imprisonment imposed upon any person be suspended or reduced until such person shall have served said mandatory minimum term of imprisonment.

A person convicted of violating any provision of this section shall not, until he shall have served the mandatory minimum term of imprisonment established herein, be eligible for probation, parole, furlough, work release, or receive any deduction from his sentence for good conduct under sections one hundred and twenty-nine C and one hundred and twenty-nine D of chapter one hundred and twenty-seven; provided, however, that the commissioner of corrections may, on the recommendation of the warden, superintendent, or other person in charge of the correctional institution, grant to said offender a temporary release in the custody of an officer of such institution for the following purposes: to attend the funeral of a relative, to visit a critically ill relative, or to obtain emergency medical or psychiatric services unavailable at said institution. The provisions of section eighty-seven of chapter two hundred and seventy-six shall not apply to any person, seventeen years of age or over, charged with a violation of said sections, or to any child between the age of fourteen and seventeen, so charged, if the court is of the opinion that the

899 interests of the public require that he shall be tried for such offense instead of being dealt with as
900 a child.

901 **SECTION 34.** Chapter 269 of the General Laws shall be amended by inserting after
902 section 10E the following section:-

903 Section 10F. Carrying of dangerous weapons, punishment

904 Whoever, except as provided by law, carries on his person, or carries on his person or under his
905 control in a vehicle, any stiletto, dagger or a device or case which enables a knife with a locking
906 blade to be drawn at a locked position, any ballistic knife, or any knife with a detachable blade
907 capable of being propelled by any mechanism, dirk knife, any knife having a double-edged
908 blade, or a switch knife, or any knife having an automatic spring release device by which the
909 blade is released from the handle, having a blade of over one and one-half inches, or a slung
910 shot, blowgun, blackjack, metallic knuckles or knuckles of any substance which could be put to
911 the same use with the same or similar effect as metallic knuckles, nunchaku, zoo bow, also
912 known as klackers or kung fu sticks, or any similar weapon consisting of two sticks of wood,
913 plastic or metal connected at one end by a length of rope, chain, wire or leather, a shuriken or
914 any similar pointed starlike object intended to injure a person when thrown, or any armband,
915 made with leather which has metallic spikes, points or studs or any similar device made from any
916 other substance or a cestus or similar material weighted with metal or other substance and worn
917 on the hand, or a manrikigusari or similar length of chain having weighted ends; or whoever,
918 when arrested upon a warrant for an alleged crime, or when arrested while committing a breach
919 or disturbance of the public peace, is armed with or has on his person, or has on his person or
920 under his control in a vehicle, a billy or other dangerous weapon other than those herein

mentioned and those mentioned in paragraph (a), shall be punished by imprisonment for not less than two and one-half years nor more than five years in the state prison, or for not less than six months nor more than two and one-half years in a jail or house of correction, except that, if the court finds that the defendant has not been previously convicted of a felony, he may be punished by a fine of not more than fifty dollars or by imprisonment for not more than two and one-half years in a jail or house of correction.

SECTION 35. Section eleven A of chapter two hundred sixty-nine of the General Laws is hereby amended by deleting the section in its entirety and replacing it with the following:-

Section 11A. For the purposes of this section and sections eleven B, eleven C and eleven E, the following words shall have the following meanings:—

“Firearm”, any weapon which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; or any destructive device. Such term does not include an antique firearm. This term shall be meant to include a rifle, shotgun, handgun or machine gun.

“Serial number”, the number stamped or placed upon a firearm by the manufacturer in the original process of manufacture.

“Identification number”, the number stamped or placed upon a firearm by the colonel of the state police under authority of section eleven D.

SECTION 36. Section eleven E of chapter two-hundred sixty-nine is hereby amended by deleting the section in its entirety and replacing it with the following:

941 Section 11E. All firearms of new manufacture, manufactured or delivered to any licensed
942 dealer within the commonwealth shall bear serial numbers permanently inscribed on a visible
943 metal area of said firearm, and the manufacturer of said firearm, shall keep records of said serial
944 numbers and the dealer, distributor or person to whom the firearm was sold or delivered.

945 No licensed dealer shall order for delivery, cause to be delivered, offer for sale or sell within
946 the commonwealth any newly manufactured firearm received directly from a manufacturer,
947 wholesaler or distributor not so inscribed with a serial number nor shall any licensed
948 manufacturer or distributor of firearms deliver or cause to be delivered within the commonwealth
949 any firearm not complying with this section.

950 No licensed manufacturer within the commonwealth shall produce for sale within the United
951 States, its territories or possessions any firearm not complying with paragraph one of this section.
952 Whoever violates this section shall be punished by a fine of five hundred dollars. Each such
953 violation shall constitute a separate offense.

954 **SECTION 37.** Section twelve E of chapter two-hundred and sixty-nine is hereby
955 amended by deleting the section in its entirety and replacing it with the following:-

956 Section 12E. Prohibiting the confiscation of lawfully owned firearms.

957 No government official or any person acting on behalf of the Commonwealth of
958 Massachusetts shall order the confiscation of, or otherwise cause the confiscation of, any
959 lawfully carried or lawfully owned firearm.

960 No law enforcement officer, person acting as a law enforcement officer, or other public
961 official shall confiscate or attempt to confiscate any lawfully carried or lawfully owned firearm.

Whoever violates the provisions of this section shall be subject to a civil fine of not less than \$500 nor more than \$5,000 for each firearm unlawfully confiscated or by imprisonment in a state prison for not more than two and one-half years.

Nothing in this section shall prohibit the confiscation of firearms from any person who;

- (a) Has been placed under arrest;
- (b) Who is the subject of a protection order issued under Chapter 209A;
- (c) Has had their Firearm Identification Card revoked or suspended; or
- (d) Who is or has become a prohibited person.

SECTION 38. Section eight A of chapter two hundred seventy-eight of the General Laws is hereby amended by striking the existing language and replacing it with the following:

Section 8A. It shall be an act of lawful defense if a person, who is an occupant of a dwelling or in any place that they have a right to be, used deadly force, or less than deadly force, if he or she acted in the reasonable belief that an assailant was about to inflict great bodily injury or death upon themselves or upon another person who also had a right to be in the location.

There shall be no duty on a person to retreat from any place that they have a right to be. An act of lawful defense as outlined in this section shall not be cause for arrest or prosecution. Further, an act of lawful defense under this section shall not be cause for the revocation of a firearm identification card issued under Chapter 140.